



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Barbers and Cosmetology
Virginia Administrative Code (VAC) citation	18 VAC 41 -50
Regulation title	TATTOOING REGULATIONS
Action title	Promulgation of regulations to incorporate amendments to Code of Virginia.
Document preparation date	May 17, 2004

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that an "emergency situation" is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an "emergency situation" as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

Chapter 869 of the 2002 Acts of the Assembly mandated a separate licensing category for tattooing under the Board for Barbers and Cosmetology. The legislation set forth that the provisions of this act shall become effective on July 1, 2004, except that § 54.1-702 shall become effective on July 1, 2002 and that regulations to implement the provisions of this act to be

effective by July 1, 2004. The regulations contain the requirements for obtaining a license, safety and sanitation procedures, and standards of professional conduct. Emergency action is justified in this case due to the “imminent threat to public health or safety” (§ 2.2-4011.A of the Administrative Process Act) which would result from the failure of the Board to have regulations in place on July 1, 2004.

After July 1, 2004, without regulations the Board will be unable to process applications for licensure due to the inability to determine the eligibility of the applicants. The statutes require licensure for individuals (§§ 54.1-703 and 54.1-704), and parlors (§ 54.1-704.1). All of the qualifications for licensure for all licenses issued by the Board are contained in regulations, therefore, eligibility cannot be determined without regulations.

The Board does not have authority to take enforcement action including safety and sanitation procedures, and standards of professional conduct until regulation are effective.

This action is based on the mandate of the 2002 General Assembly that the health, safety and welfare of the public would be endangered without the issuance of licenses and enforcement of regulations of this occupation.

This action is a part of a previous regulatory action that began with a combined set of regulations for tattooing and body-piercing. On April 26, 2004, the Board adopted separate tattooing and body-piercing emergency regulations in order to promulgate regulations that would pertain specifically to each professional service. The separate emergency regulations are intended to provide clarity and flexibility in the promulgation of regulations that would apply to each professional service.

Legal basis

Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal authority to promulgate emergency regulations is in §§ 2.2-4011.A and 54.1-201.5 of the *Code of Virginia*:

Emergency regulations are promulgated under the general authority of Chapter 40 of Title 2.2 of the Code of Virginia. Section 2.2-4011(A) describes regulations that an agency finds are necessitated by an emergency situation:

§ 2.2-4011. Emergency regulations; publication; exceptions.

A. Regulations that an agency finds are necessitated by an emergency situation. For the purposes of this subsection, "emergency situation" means a situation (i) involving an imminent threat to

public health or safety or (ii) in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt the regulations. Pursuant to § 2.2-4012, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. The regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with this article. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4011>

Enactment of Chapter 869 of the 2002 Acts of the Assembly

CHAPTER 869

An Act to amend and reenact §§ 54.1-700 through 54.1-703 and 54.1-704.1 through 54.1-706 of the Code of Virginia, relating to the regulation of body piercing and tattooing.

[H 531]

Approved April 17, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ [54.1-700](#) through [54.1-703](#) and [54.1-704.1](#) through [54.1-706](#) of the Code of Virginia are amended and reenacted as follows:

§ [54.1-700](#). Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications,

treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

§ [54.1-701](#). Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of ~~this~~ the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in ~~this~~ the Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, nail technicians, barber instructors, cosmetology instructors, or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions;
4. Persons licensed as funeral directors or embalmers in ~~this~~ the Commonwealth;
5. Gratuitous services as a barber, nail technician, ~~or~~ cosmetologist, *tattooer, or body-piercer*;

6. Students enrolled in an approved school taking a course in barbering, nail care, ~~or~~ cosmetology, *tattooing, or body-piercing*;
7. Persons working in a cosmetology salon whose duties are expressly confined to the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;
8. Apprentices serving in a barbershop, nail salon or cosmetology salon licensed by the Board in accordance with the Board's regulations; and
9. Schools of barbering, nail care or cosmetology in public schools.

§ [54.1-702](#). Board for Barbers and Cosmetology; membership; officers; quorum.

A. Except as provided in subsections B and C, the Board for Barbers and Cosmetology shall be composed of ~~seven~~ *eight* members, of whom two members shall be licensed barbers, one of whom may be an owner or operator of a barber school; two members shall be licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school; and one member shall be a licensed nail technician or a licensed cosmetologist engaged primarily in the practice of nail care, each of whom shall have been licensed in their respective professions for at least three years immediately prior to appointment, *one member who shall be either a licensed tattooer or a licensed body-piercer* and two citizen members. The terms of Board members shall be four years. No member shall serve for more than two full successive terms. The Board shall elect a chairman and a vice-chairman. A majority of the Board shall constitute a quorum.

B. Appointments to the Board of Cosmetology which expire on March 14, of 2000, 2001 and 2002, shall be extended to June 30 of the same year of expiration.

C. All members of the Board for Barbers and the Board for Cosmetology with unexpired terms, as of July 1, 2000, shall continue as members of their respective boards and shall complete their terms of appointment. Two positions on the Board for Cosmetology shall expire on June 30, 2001, and three positions shall expire on June 30, 2002. Two positions on the Board for Barbers shall expire on June 30, 2001, and one position shall expire on June 30, 2002.

D. The Governor shall appoint to the Board for Barbers and Cosmetology one licensed nail technician and two citizen members effective July 1, 2000; one licensed barber, who may be an owner or operator of a barber school, effective July 1, 2001; one licensed barber effective July 1, 2002; and two licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school, effective July 1, 2002.

E. The Governor shall appoint to the Board for Barbers and Cosmetology either a tattooer or body-piercer who has practiced as a tattooer or body-piercer for at least five consecutive years immediately prior to appointment, effective July 1, 2002. The tattooer or body-piercer member shall not vote on any matters before the Board except matters related to tattooing and body-piercing until July 1, 2004.

§ [54.1-703](#). License required.

No person shall offer to engage in or engage in barbering, cosmetology, ~~or~~ nail care, *tattooing, or body-piercing* without a valid license issued by the Board, except as provided in § [54.1-701](#).

§ [54.1-704.1](#). License required for barbershop, cosmetology salon, nail care salon, tattoo parlor, and body-piercing salon.

No individual or entity shall operate a barbershop, cosmetology salon, ~~or~~ nail care salon, *tattoo parlor, or body-piercing salon* without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, ~~or~~ nail technician, *tattooer, or body-piercer* who does not have an ownership interest in a licensed barbershop, cosmetology salon, ~~or~~ nail care salon, *tattoo parlor, or body-piercing salon* in which he is employed.

§ [54.1-704.2](#). License required for schools of barbering, cosmetology, nail care, tattooing, or body-piercing.

Except as provided in § [54.1-701](#), no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, ~~or~~ nail care, *tattooing, or body-piercing* unless licensed by the Board pursuant to its regulations.

§ [54.1-705](#). Inspections.

A. Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, ~~and~~ nail care salon, *tattoo parlor, and body-piercing salon* in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action.

B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, ~~and~~ nail care salons and schools, *tattoo parlors and schools, and body-piercing salons and schools* for compliance with regulations promulgated by the Board.

C. *The Board shall specify procedures for enforcement of compliance with the disease control and disclosure requirements of § [18.2-371.3](#), including unannounced inspections by appropriate personnel.*

D. *The Board or the Virginia Department of Health, or an affiliated local health department, may regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons.*

§ [54.1-706](#). Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology, ~~and~~ nail care, *tattooing, and body-piercing*.

2. That the provisions of this act shall become effective on July 1, 2004, except that § [54.1-702](#) shall become effective on July 1, 2002.

3. That the Board shall adopt final regulations to implement the provisions of this act to be effective by July 1, 2004.

<http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0869>

Regulations are promulgated under the general authority of Chapter 2 of Title 54.1 of the Code of Virginia. Section 54.1-201(5) provides the Board the authority to promulgate regulations to administer the regulatory system:

§ 54.1-201. Powers and duties of regulatory boards.

The powers and duties of regulatory boards shall be as follows:

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-210>

The statement from the Office of the Attorney General certifying that the agency has the statutory authority to promulgate the emergency regulations and that it comports with applicable state and/or federal law is included.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board proposes to promulgate regulations, 18 VAC 41-50-10 et seq., governing the licensure and practice of tattooing as directed by Chapter 869 of the 2002 Acts of the Assembly.

The emergency regulatory action is necessary to ensure minimal competence of tattooing practitioners. This regulatory action will establish qualifications for licensure, standards of practice, requirements for maintaining licensure as a tattooer or tattoo parlor in the Commonwealth of Virginia. This regulatory action will establish fees necessary to administer the licensure program.

As directed by the 2002 General Assembly, this regulatory action is required to protect the health, safety and welfare of citizens of the Commonwealth in that it will provide for and ensure that licensees have met qualifications that demonstrate competency that protects the health, safety and welfare of citizens of the Commonwealth and that health and sanitary standards and safety are adequate in parlors where tattooing services are being provided.

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

These emergency regulations are being promulgated to establish a separate licensing category for tattooing under the Board for Barbers and Cosmetology as directed by Chapter 869 of the 2002 Acts of the Assembly.

The emergency regulatory action is necessary to ensure minimal competence of tattooing practitioners. This regulatory action will establish qualifications for licensure, standards of practice and requirements for maintaining licensure as a tattooer and a tattoo parlor in the Commonwealth of Virginia. This regulatory action will establish fees necessary to administer the licensure of tattooers and tattoo parlors in the Commonwealth of Virginia.

As directed by the 2003 General Assembly, this regulatory action is required to protect the health, safety and welfare of citizens of the Commonwealth in that it will provide for and ensure that licensees have met qualifications that demonstrate competency that protects the health, safety and welfare of citizens of the Commonwealth and that health and sanitary standards and safety are adequate in parlors where tattooing services are being provided.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
NA	<u>18 VAC 41-50-10.</u> <u>Definitions.</u>	NA	<p>The following words and terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.</p> <p>“Apprenticeship program” means an approved tattooing training program conducted by an approved apprenticeship sponsor.</p> <p>“Apprenticeship sponsor” means an individual approved to conduct tattooing apprenticeship training who meets the qualifications in 18 VAC 41-50-70.</p> <p>“Aseptic technique” means a hygienic practice which prevents and hinders the direct transfer of microorganisms, regardless of pathogenicity, from one person or place to another person or place.</p>

			<p><u>"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.</u></p> <p><u>"Gratuitous services" as used in Section 54.1-701.5 of the Code Virginia means providing tattooing services without receiving compensation or reward, or obligation. Gratuitous services do not include services provided at no charge when goods are purchased.</u></p> <p><u>"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.</u></p> <p><u>"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.</u></p> <p><u>"Renewal" means continuing the effectiveness of a license for another period of time.</u></p> <p><u>"Sterilization area" means a separate room or area separate from workstations with restricted client access in which tattooing instruments are cleaned, disinfected, and sterilized.</u></p> <p><u>"Temporary location" means a fixed location at which tattooing is performed for a specified length of time of not more than seven days in conjunction with a single event or celebration.</u></p> <p>Defines the meaning of words and terms used within the chapter and establishes that all terms defined in § 54.1-700 et seq., of the Code of Virginia are incorporated into the chapter.</p>
NA	<u>18 VAC 41-50-20. General requirements for tattooer.</u>	NA	<p><u>A. In order to receive a license as a tattooer in compliance with § 54.1-703 of the Code of Virginia, an applicant must meet the following qualifications:</u></p> <ol style="list-style-type: none"> <u>1. The applicant shall be required to provide documentation to the board that they have received the full series of Hepatitis B vaccine or provide proof of immunity by blood titer.</u> <u>2. The applicant shall be in good standing as a tattooer in every jurisdiction where licensed, certified, or registered. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in</u>

			<p><u>connection with the applicant's practice as a tattooer. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a tattooer.</u></p> <p>3. <u>The applicant shall disclose his physical address. A post office box is not acceptable.</u></p> <p>4. <u>The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia tattooing license laws and the board's tattooing regulations.</u></p> <p>5. <u>In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of tattooing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of tattooing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within ten days after all appeal rights have expired.</u></p> <p>6. <u>The applicant shall provide evidence satisfactory to the board that the applicant has passed the board approved examination, administered either by the board or by a designated testing service.</u></p> <p>7. <u>Persons who (i) make application between July 1, 2004 and July 1, 2005, and (ii) have completed five years of documented work experience within the preceding eight years as a tattooer, and (iii) have completed health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing and first aid and CPR that is acceptable to the board are not required to complete 18 VAC 41-50-20.A.6.</u></p>
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			<p><u>B. Eligibility to sit for board-approved examination.</u></p> <p><u>1. Training in the Commonwealth of Virginia.</u></p> <p><u>Any person completing an approved tattooing apprenticeship program in a Virginia licensed tattoo parlor shall be eligible to sit for the examination.</u></p> <p><u>2. Training outside of the Commonwealth of Virginia, but within the United States and its territories.</u></p> <p><u>Any person completing a tattooing training or apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of training or apprenticeship to be eligible for examination.</u></p> <p>Establishes the general requirements for licensure as a tattooer which include applicant qualifications and eligibility to sit for a board-approved examination. Establishes qualifications for waiver of the examination for persons making application between July 1, 2004 and July 1, 2005.</p>
NA	<u>18 VAC 41-50-30. License by endorsement.</u>	NA	<p><u>Upon proper application to the board, any person currently licensed to practice as a tattooer in any other state or jurisdiction of the United States and who has completed a training or apprenticeship program and an examination that is substantially equivalent to that required by this chapter, may be issued a tattooer license without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-50-20.A.1 through 18 VAC 41-50-20.A.5.</u></p> <p>Sets forth the requirements for obtaining a tattooer license by endorsement for applicants currently licensed to practice as a tattooer in another state or jurisdiction of the United States.</p>
NA	<u>18 VAC 41-50-40. Examination requirements and fees.</u>	NA	<p><u>A. Applicants for initial licensure shall pass an examination approved by the board. The examinations may be administered by the board or by a designated testing service.</u></p> <p><u>B. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.</u></p>

			<p>Sets forth the requirement that applicants for an initial tattooer license pass an examination administered by the board or by a designated testing service. This section also states that any candidate failing to appear for an examination shall forfeit the examination fee.</p>
NA	<u>18 VAC 41-50-50. Reexamination requirements.</u>	NA	<p><u>Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.</u></p> <p>Requires any applicant who does not pass a reexamination within one year of the initial examination to submit new application and examination fee.</p>
NA	<u>18 VAC 41-50-60. Examination administration.</u>	NA	<p>A. <u>The examinations may be administered by the board or the designated testing service.</u></p> <p>B. <u>The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.</u></p> <p>C. <u>The fee for examination or re-examination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225.00 per candidate.</u></p> <p>Establishes the requirements for the administration of the tattooing examination to include the procedure for setting fees for examination and reexamination. This section also sets forth a standard of applicant conduct during the administration of an examination.</p>
NA	<u>18 VAC 41-50-70. General requirements</u>	NA	<p>A. <u>Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section may be</u></p>

	<u>for a tattooing apprenticeship sponsor.</u>		<p><u>eligible to sponsor a tattooing apprentice if the person:</u></p> <ol style="list-style-type: none"> <u>1. Holds a current Virginia tattooer license; and</u> <u>2. Provides documentation of legally practicing tattooing for at least seven years and;</u> <u>3. Provides documentation indicating that they are in good standing in all jurisdictions where the practice of tattooing is regulated.</u> <p><u>B. Apprenticeship sponsors shall be required to maintain a tattooer license.</u></p> <p><u>C. Apprenticeship sponsors shall ensure compliance with the 1500 hour Tattooing Apprenticeship Program and Tattooing Apprenticeship Standards.</u></p> <p>Sets forth the general eligibility requirements for applicants desiring to be a tattooing apprenticeship sponsor.</p>
NA	<u>18 VAC 41-50-80. Parlor license.</u>	NA	<p><u>A. Any individual wishing to operate a tattoo parlor shall obtain a tattoo parlor license in compliance with § 54.1-704.1 of the Code of Virginia.</u></p> <p><u>B. A tattoo parlor license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the parlor shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.</u></p> <p><u>C. In the event of a closing of a tattoo parlor, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.</u></p> <p><u>D. Any individual wishing to operate a tattoo parlor in a temporary location must have a tattoo parlor license issued by the board.</u></p> <p>Establishes the requirements for obtaining a tattoo parlor license in compliance with § 54.1-704.1 of the Code of Virginia. This section also specifies actions to be taken by an owner of a tattoo parlor in the event the facility closes.</p>
NA	<u>18 VAC 41-50-90. Fees.</u>	NA	The following fees apply:

			<u>FEE TYPE</u>	<u>AMOUNT DUE</u>	<u>WHEN DUE</u>
			<u>Individuals:</u>		
			<u>Application</u>	<u>\$55</u>	<u>With application</u>
			<u>License by Endorsement</u>	<u>\$55</u>	<u>With application</u>
			<u>Renewal:</u>	<u>\$55</u>	<u>With renewal card prior to expiration date</u>
			<u>Reinstatement</u>	<u>\$110*</u> <u>*includes \$55 renewal fee and \$55 reinstatement fee</u>	<u>With reinstatement application</u>
			<u>Parlors:</u>		
			<u>Application</u>	<u>\$90</u>	<u>With application</u>
			<u>Renewal</u>	<u>\$90</u>	<u>With renewal card prior to expiration date</u>
			<u>Reinstatement</u>	<u>\$180*</u> <u>*includes \$90 renewal fee and \$90 reinstatement fee</u>	<u>With reinstatement application</u>
			<p>Establishes initial, renewal and reinstatement application fees for individuals and parlors that are licensed under this chapter.</p> <p>All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies.</p>		
NA	<u>18 VAC 41-50-100. Refunds.</u>	NA	<p>All fees are nonrefundable and shall not be prorated.</p> <p>Establishes that all fees are nonrefundable and shall not be prorated</p>		
NA	<u>18 VAC 41-50-</u>	NA	All tattooer licenses and tattoo parlor licenses shall		

	<u>110. License renewal required.</u>		<p><u>expire two years from the last day of the month in which they were issued.</u></p> <p>Prescribes the dates for renewal of tattooer and parlor licenses.</p>
NA	<u>18 VAC 41-50-120. Continuing education requirement.</u>	NA	<p><u>All licensed tattooers shall be required to satisfactorily complete a course in health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing, first aid and CPR during their licensed term. Documentation of training completion shall be provided at the time of renewal along with the required fee.</u></p> <p>Prescribes a requirement for completion of a continuing education course in order for a tattooer to renew his licensee.</p>
NA	<u>18 VAC 41-50-130. Notice of renewal.</u>	NA	<p><u>The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.</u></p> <p>Sets forth that the Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the procedures for renewal, however, failure to receive this notice shall not relieve the licensee of the obligation to renew.</p>
NA	<u>18 VAC 41-50-140. Failure to renew.</u>	NA	<p><u>A. When a tattooer fails to renew their license within 30 days following its expiration date, the licensee shall meet the renewal requirements prescribed in 18 VAC 41-50-130, and apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.</u></p> <p><u>B. When a tattooer fails to renew their license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the Board's current examination and shall receive a new license.</u></p> <p><u>C. When a tattoo parlor fails to renew its license</u></p>

			<p><u>within 30 days following the expiration date shall be required to apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application along with the required renewal and reinstatement fees.</u></p> <p><u>D. When a tattoo parlor fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.</u></p> <p><u>E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.</u></p> <p><u>F. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.</u></p> <p><u>G. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.</u></p> <p><u>H. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.</u></p> <p>The criteria and procedures for reinstatement in the event that a licensee fails to renew their license or certification.</p>
	<p><u>18 VAC 41-50-150 General requirements.</u></p>		<p><u>A. Any person desiring to enroll in the Tattooing Apprenticeship program shall be required to provide documentation of satisfactory completion of a course in health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing, first aid and CPR.</u></p> <p><u>B. Any tattooer desiring approval to perform the duties of an apprenticeship sponsor and offer the board's tattooing apprenticeship program shall</u></p>

			<p><u>meet the requirements in 18 VAC 41-50-70 of this chapter.</u></p> <p>Sets forth the general requirements for individuals enrolling in tattooing apprenticeship training program. This section also specifies that any individual desiring to serve as an apprenticeship sponsor shall meet the requirements set forth in 18 VAC 41-50-70.</p>
	<p><u>18 VAC 41-50-160. Apprenticeship curriculum requirements.</u></p>		<ol style="list-style-type: none"> 1. <u>Microbiology:</u> <ol style="list-style-type: none"> a. <u>Microorganisms, viruses, bacteria, fungi;</u> b. <u>Transmission cycle of infectious diseases; and</u> c. <u>Characteristics of antimicrobial agents.</u> 2. <u>Immunization:</u> <ol style="list-style-type: none"> a. <u>Types of immunizations;</u> b. <u>Hepatitis A – G transmission and immunization;</u> c. <u>HIV/AIDS;</u> d. <u>Tetanus, streptococcal, zoonotic, tuberculosis, pneumococcal, and influenza;</u> e. <u>Measles, mumps, and rubella;</u> f. <u>Vaccines and immunization; and</u> g. <u>General preventative measures to be taken to protect the tattooist and client.</u> 3. <u>Sanitation and Disinfection:</u> <ol style="list-style-type: none"> a. <u>Definition of terms:</u> <ol style="list-style-type: none"> (1) <u>Sterilization;</u> (2) <u>Disinfection and disinfectant;</u> (3) <u>Sterilizer or sterilant;</u> (4) <u>Antiseptic;</u> (5) <u>Germicide;</u> (6) <u>Decontamination; and</u> (7) <u>Sanitation.</u> b. <u>The use of steam sterilization equipment and techniques;</u> c. <u>The use of chemical agents, antiseptics, disinfectants, and fumigants;</u> d. <u>The use of sanitation equipment;</u> e. <u>Pre-service sanitation procedure; and</u> f. <u>Post-service sanitation procedure.</u> 4. <u>Safety:</u> <ol style="list-style-type: none"> a. <u>Proper needle handling and disposal;</u> b. <u>How to avoid overexposure to chemicals;</u> c. <u>The use of Material Safety Data Sheets;</u> d. <u>Blood spill procedures;</u> e. <u>Equipment and instrument storage; and</u> f. <u>First aid and CPR.</u> 5. <u>Blood Borne Pathogen Standards:</u>

			<ul style="list-style-type: none"> a. <u>OSHA and CDC blood borne pathogen standards;</u> b. <u>Control Plan for blood borne pathogens;</u> c. <u>Exposure Control Plan for Tattooers;</u> d. <u>Overview of compliance requirements;</u> <u>and</u> e. <u>Disorders and when not to service a client.</u> <p>6. <u>Professional Standards:</u></p> <ul style="list-style-type: none"> a. <u>History of tattooing;</u> b. <u>Ethics;</u> c. <u>Record keeping:</u> <ul style="list-style-type: none"> (1) <u>Client health history;</u> (2) <u>Consent forms; and</u> (3) <u>HIPPA Standards.</u> d. <u>Preparing station, making appointments, parlor ethics:</u> <ul style="list-style-type: none"> (1) <u>Maintaining professional appearance, notifying clients of schedule changes;</u> <u>and</u> (2) <u>Promoting services of the parlor and establishing clientele.</u> e. <u>Parlor management:</u> <ul style="list-style-type: none"> (1) <u>Licensing requirements; and</u> (2) <u>Taxes.</u> <p>7. <u>Tattooing:</u></p> <ul style="list-style-type: none"> a. <u>Client consultation;</u> b. <u>Client health form;</u> c. <u>Client disclosure form;</u> d. <u>Client preparation;</u> e. <u>Sanitation and safety precautions;</u> f. <u>Implement selection and use;</u> g. <u>Proper use of equipment; and</u> h. <u>Material selection and use.</u> <p>Sets forth the tattooing apprenticeship training curriculum requirements.</p>
<p>NA</p>	<p><u>18 VAC 41-50-170. Hours of instruction and performances.</u></p>	<p>NA</p>	<p>A. <u>Curriculum requirements specified in 18 VAC 41-50-160 shall be taught over a minimum of 1500 hours as follows:</u></p> <ul style="list-style-type: none"> 1. <u>350 hours shall be devoted to theory pertaining to 18 VAC 41-50-160.1, 18 VAC 41-50-160.2, 18 VAC 41-50-160.4, 18 VAC 41-50-160.5, and 18 VAC 41-50-160.6;</u> 2. <u>150 hours shall be devoted to theory pertaining to 18 VAC 41-50-160.3; and</u> 3. <u>The remaining 1000 hours shall be devoted to practical training and a total of 100 performances pertaining to 18 VAC 41-50-160.7.</u> <p>B. <u>An approved Tattooing Apprenticeship Program</u></p>

			<p><u>may conduct an assessment of an apprentice's competence in the theory and practical requirements for tattooing and, based on the assessment, give a maximum of 700 hours of credit towards the requirements in 18 VAC 41-50-170.A.1 and 18 VAC 41-50-170.A.3. No credit shall be allowed for the 150 hours required in 18 VAC 41-50-170.A.2.</u></p> <p>Establishes the hours and performance requirements for the tattooing apprenticeship training program.</p> <p>Establishes that a competency assessment may be conducted and an apprentice be given credit towards the curriculum and performance requirements in order that an apprentice with previous training and experience may through demonstration of their competency receive credit toward curriculum and performance requirements.</p>
NA	<u>18 VAC 41-50-180. Display of license.</u>	NA	<p>A. <u>Each tattoo parlor owner shall ensure that all current licenses issued by the board shall be displayed in the reception area of the parlor or in plain view of the public. Duplicate licenses shall be posted in a like manner in every parlor or location where the licensee provides services.</u></p> <p>B. <u>Each parlor owner shall ensure that no licensee performs any service beyond the scope of practice for the applicable license.</u></p> <p>C. <u>All licensees shall operate under the name in which the license is issued.</u></p> <p>Establishes the requirements for owners of licensed tattoo parlors to ensure proper display or licenses for practitioners operating in their facility. This section also establishes that the owner of the parlor is responsible for ensuring that licensees only perform services that are within their scope of practice and that all licensees operate under the name in which the license was issued.</p>
NA	<u>18 VAC 41-50-190. Physical facilities.</u>	NA	<p>A. <u>A parlor must be in a permanent, building or portion of a building which must be in a location permissible under local zoning codes, if any. If applicable, the parlor or shall be separated from any living quarters by complete floor to ceiling</u></p>

			<p><u>partitioning and shall contain no access to living quarters.</u></p> <p><u>B. The parlor or temporary location shall be maintained in a clean and orderly manner.</u></p> <p><u>C. All facilities shall have a blood spill clean-up kit in the work area.</u></p> <p><u>D. Work surfaces shall be cleaned with an EPA registered, hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures.</u></p> <p><u>E. Cabinets for the storage of instruments, dyes, pigments, single use articles, carbon stencils and other utensils shall be provided for each operator and shall be maintained in a sanitary manner.</u></p> <p><u>F. Bulk single-use articles shall be commercially packaged and handled in such a way as to protect them from contamination.</u></p> <p><u>G. All materials applied to the human skin shall be from single-use articles or transferred from bulk containers to single use containers and shall be disposed of after each use.</u></p> <p><u>H. The walls, ceilings, and floors shall be kept in good repair. The tattooing area shall be constructed of smooth, hard, surfaces that are non-porous, free of open holes or cracks, light colored, and easily cleaned. New parlor shall not include any dark-colored surfaces in the tattooing area. Existing parlors with dark-colored surfaces in the tattooing area shall replace the dark-colored surfaces with light-colored surfaces whenever the facilities are extensively remodeled or upon relocation of the business.</u></p> <p><u>I. Parlors and temporary locations shall have adequate lighting of at least 50 foot-candles of illumination in the tattooing and sterilization areas.</u></p> <p><u>J. Adequate mechanical ventilation shall be provided in the parlor.</u></p> <p><u>K. Each parlor or temporary location shall be equipped with hand-cleaning facilities for its personnel with unobstructed access to the tattooing area such that the tattooer can return to the tattooing area without having to touch</u></p>
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			<p><u>anything with their hands. Hand-cleaning facilities shall be equipped either with hot and cold or tempered running water under pressure and liquid germicidal soap, or with a sanitizing solution to clean hands. Hand-cleaning facilities shall be equipped with single-use towels or mechanical hand drying devices; and a covered refuse container. Such facilities shall be kept clean and in good repair.</u></p> <p><u>L. Animals are not permitted in the parlor, or temporary location except for guide or service animals accompanying persons with disabilities, or non-mammalian animals in enclosed glass containers such as fish aquariums, which shall be outside of the tattooing or sterilization areas. No animals are allowed in the tattooing or sterilization areas.</u></p> <p><u>M. Use of tobacco products and consumption of alcoholic beverages shall be prohibited in the tattooing or sterilization areas.</u></p> <p><u>N. No food or drink will be stored or consumed in the tattooing or sterilization areas except for client's use in order to sustain optimal physical condition; such food and drink must be individually packaged.</u></p> <p><u>O. If tattooing is performed where cosmetology services are provided, it shall be performed in an area that is separate and enclosed.</u></p> <p>Sets forth the sanitation and safety standards for parlors and temporary locations where tattooing services are provided to include disinfection and storage of implements, sanitation of equipment, articles, tools, and products. This section also establishes safety standards pertaining to sterilization areas where tattooing services are provided, the proper handling of blood spills, and client health guidelines.</p>
NA	<u>18 VAC 41-50-200. Tattooer responsibilities</u>	NA	<p><u>A. All tattooers shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.</u></p> <p><u>B. All tattooers shall clean their hands thoroughly using hot or tempered water with a liquid germicidal soap or use sanitizing solution to clean hands before and after tattooing and as necessary to remove contaminants.</u></p> <p><u>C. All tattooers must wear single-use examination</u></p>

			<p><u>gloves while assembling tattooing instruments and while tattooing.</u></p> <p><u>D. Each time there is an interruption in the service, each time the gloves become torn or perforated, or whenever the ability of the gloves to function as a barrier is compromised.</u></p> <ol style="list-style-type: none"> <u>1. Gloves should be removed and disposed of; and</u> <u>2. Hands shall be cleaned and a fresh pair of gloves used.</u> <p><u>E. Tattooers shall use standard precautions while tattooing. A tattooer diagnosed with a communicable disease shall provide to the department a written statement from a health care practitioner that the tattooer's condition no longer poses a threat to public health.</u></p> <p><u>F. Tattooers with draining lesions on their hands or face will not be permitted to work until cleared by a health-care professional.</u></p> <p><u>G. The area of the client's skin to be tattooed shall be cleaned with an approved germicidal soap according to label directions.</u></p> <p><u>H. Tattooing inks and dyes shall be placed in a single-use disposable container for each client. Following the procedure, the unused contents and container will be properly disposed of.</u></p> <p><u>I. If shaving is required, razors shall be single-use and disposed of in a puncture resistant container.</u></p> <p><u>J. Each tattooer performing any tattooing procedures in the parlor shall have the education, training and experience, or any combination thereof, to practice aseptic technique and prevent the transmission of blood borne pathogens. All procedures shall be performed using aseptic technique.</u></p> <p><u>K. A set of individual, sterilized needles shall be used for each client. Single use disposable instruments shall be disposed of in a puncture resistant container.</u></p> <p><u>L. Used, non-disposable instruments shall be kept in a separate, puncture resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves.</u></p>
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			<p><u>M. Used instruments that are ultrasonically cleaned shall be rinsed under running hot water prior to being placed in the used instrument container;</u></p> <p><u>N. Used instruments that are not ultrasonically cleaned prior to being placed in the used instrument container shall be kept in a germicidal or soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving.</u></p> <p><u>O. The ultrasonic unit shall be sanitized daily with a germicidal solution.</u></p> <p><u>P. Non-disposable instruments shall be sterilized and shall be handled and stored in a manner to prevent contamination. Instruments to be sterilized shall be sealed in bags made specifically for the purpose of autoclave sterilization and shall include the date of sterilization. If non-transparent bags are utilized, the bag shall also list the contents.</u></p> <p><u>Q. Autoclave sterilization bags with a color code indicator which changes color upon proper sterilization shall be utilized during the autoclave sterilization process.</u></p> <p><u>R. Instruments shall be placed in the autoclave in a manner to allow live steam to circulate around them.</u></p> <p><u>S. Contaminated disposable and single use items shall be disposed of in accordance with state regulations regarding disposal of biological hazardous materials.</u></p> <p>Specifies in detail the responsibilities of tattooers pertaining to safety and sanitation measures to be taken while providing tattooing services.</p>
NA	<u>18 VAC 41-50-210. Client qualifications, disclosures, and records.</u>	NA	<p><u>A. Except as permitted in § 18.2-371.3 of the Code of Virginia, a client must be a minimum of 18 years of age and shall present at the time of the tattooing a valid, government issued, positive identification card including, but not limited to, a driver's license, passport, or military identification. The identification must contain a photograph of the individual and a printed date of birth.</u></p> <p><u>B. The tattooer shall verify and document in the permanent client record the client's age, date of birth, and the type of identification provided.</u></p> <p><u>C. No person may be tattooed who appears to be</u></p>

			<p><u>under the influence of alcohol or drugs.</u></p> <p><u>D. Tattooing shall not be performed on any skin surface which manifests any evidence of unhealthy conditions such as rashes, boils, infections, or abrasions.</u></p> <p><u>E. Before receiving a tattoo, each client and client's parent or guardian, if applicable, shall be informed verbally and in writing, using the Client Disclosure Form prescribed by the board, about the possible risk and dangers associated with the application of each tattoo. Signatures of both the client and the tattooer shall be required on the Client Disclosure Form to acknowledge receipt of both the verbal and written disclosures.</u></p> <p><u>F. The tattoo parlor or temporary location shall maintain proper records for each client. The information shall be permanently recorded and made available for examination by the department or authorized agent. Records shall be maintained at the tattoo parlor for at least two years following the date of the last entry. The temporary location client records shall be maintained by the license holder. The permanent records shall include the following:</u></p> <ol style="list-style-type: none"> <u>1. The name, address, and telephone number of the client;</u> <u>2. The date tattooing was performed;</u> <u>3. The client's age, date of birth, and a copy of the positive identification provided to the tattooer;</u> <u>4. The specific color or colors of the tattoo and, when available, the manufacturer's catalogue or identification number of each color used;</u> <u>5. The location on the body where the tattooing was performed;</u> <u>6. The name of the tattooer;</u> <u>7. A statement that the client has received a copy of applicable written care instructions, and that the client has read and understands the instructions; and</u> <u>8. The signature of the client and if applicable parent or guardian.</u> <p>Prescribes the measures to be taken to ensure that</p>
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			<p>clients are qualified to receive tattooing services in compliance with § 18.2-371.3 of the Code of Virginia. This section also establishes the requirement to obtain certain disclosures and maintain records pertaining to notification to the client of the risks associated with receiving tattooing services.</p>
<p>NA</p>	<p><u>18 VAC 41-50-220. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.</u></p>	<p>NA</p>	<p>A. <u>The board may, in considering the totality of the circumstances, fine any licensee and suspend or revoke or refuse to renew or reinstate any license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:</u></p> <ol style="list-style-type: none"> <u>1. The licensee is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a tattooer; or</u> <u>2. The licensee or applicant is convicted of fraud or deceit in the practice tattooing; or</u> <u>3. The licensee or applicant obtained, renewed or reinstated a license by false or fraudulent representation; or</u> <u>4. The licensee or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which tattooers may practice or offer to practice; or</u> <u>5. The licensee or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with this chapter; or</u> <u>6. A licensee fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board; or</u>

			<p><u>7. The licensee or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading; or</u></p> <p><u>8. The licensee or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or permit in connection with a disciplinary action in any other jurisdiction or of any license, certificate, or permit which has been the subject of disciplinary action in any other jurisdiction; or</u></p> <p><u>9. In accordance with § 54.1-204 of the Code of Virginia, the licensee or applicant has been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of tattooing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of tattooing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within ten days after all appeal rights have expired.</u></p> <p><u>B. In addition to Subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any tattoo parlor or impose a fine as permitted by law, or both, if the board finds that:</u></p> <p><u>1. The owner or operator of the tattoo parlor fails to comply with the facility requirements of tattoo parlors provided for in this chapter or in any local ordinances; or</u></p> <p><u>2. The owner or operator allows a person who has not obtained a license to practice as a tattooer unless the person is duly enrolled as an apprentice.</u></p> <p><u>C. In addition to Subsection A of this section, the</u></p>
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			<p><u>board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of tattooing.</u></p> <p>Establishes the grounds for license revocation or suspension, denial of application, renewal or reinstatement, or imposition of monetary penalties for licensees.</p>
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Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The essential purpose of the emergency regulatory action is to comply with the statutory mandate to promulgate regulations governing the licensure and practice of tattooing as directed by Chapter 869 of the 2002 Acts of the Assembly.

There were no alternatives to promulgation of regulations governing the licensure and practice of tattooing as directed by Chapter 869 of the 2002 Acts of the Assembly.

Regulations were determined to be the least burdensome to meet the purpose containing the requirements for obtaining a license, safety and sanitation procedures, and standards of professional conduct.

Fees were established as equal and equitable for licensees under the Board for Barbers and Cosmetology

Family impact

Please assess the impact of the emergency regulatory action on the institution of the family and family stability.

The emergency regulatory action is not expected to have any significant impact on families.